IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO.440 OF 2003

Shri Mukund K. Deshpande ... Petitioner

V/s.

The Maharashtra State Electricity Board & Ors. ... Respondents

Mr.S.S. Pakale for Petitioners
Mr.A.R.S. Baxi for Respondents

CORAM: **H.L. GOKHALE &**
SMT.NISHITA MHATRE, JJ.

DATED: **SEPTEMBER 24, 2004**

P.C.:

. Heard Mr.Pakale in support of this Petition. Ms.Baxi appears for Respondents. The Petitioners claim to be persons engaged by Maharashtra State Electricity Board in the Satara Division for the purposes of distribution of electricity bills on piece-rate basis. Their case is that they have been engaged for a very long time. The names of these persons working on such a continuous basis are given in Exhibit A to the Petition which show that Petitioner Nos.1 and 2 were working from 1.1.1989 and the other persons have been working from 1991 onwards. The electricity board has filed a reply but it has not specifically controverted the averment that these persons were working from these dates in the particular division. The Petitioners are seeking

regularisation and a permanent status. As far as these prayers are concerned, in our view, the correct forum for the Petitioners will be the forum available under the Industrial Disputes Act by raising a demand in that behalf or by filing a complaint under the MRTU & PULP Act. It is for the Petitioners to decide which course they ought to adopt.

2. An interim order was passed by this Court in view of the statement made in this Petition. Thus order was passed on 31.1.2003 that the services of the petitioners will not be terminated. Ms.Baxi appearing for the Respondents has made a statement that their services were terminated prior to the passing of this order. On the last date of hearing, we had asked her to make a positive statement in that behalf and we record the statement made by her as stated above.

3. The second query made by us was as to whether the petitioners will be given any preference in the event of any further advertisement being given to engage persons on contract basis. This is because the case of the Respondents appear to be that there is surplus work and, therefore, as far as the distribution of bills is concerned at the relevant time it was being given on contract basis to the concerned persons. Ms.Baxi has, however, made a statement that now such work is not

being given on contract basis. Mr.Pakale has drawn our attention to an advertisement given by the Executive Engineer, Wai, District Satara in a Marathi daily paper on 20.7.2004 which is an advertisement for similar work. He has also drawn our attention to some of the orders issued to some persons in July 2004. Mr.Pakale submits that these orders though given to some agency, they are in fact given to individuals. This is the position in all the orders. Thus, for example, order No.32351 is issued to Bhagyashri Agency (Chavan), Order No.3138 to Rohit Agency (Chavan), Order No.31391 is issued to Sandeep Agency (Pharande), etc. Mr.Pakale submits that this is only a device and in fact the orders are given to individuals. He also disputes the fact of termination.

4. Be that as it may, as stated above, in our view, the proper course for the Petitioners will be to raise an industrial dispute or file a complaint to agitate the prayers which are made in the present petition. In the meanwhile, all that we can expect from the electricity board is to maintain a seniority register wherein the names of such persons engaged on contract basis will be entered and even if the work is on contract basis, persons concerned should be given that work depending on their position in the seniority list. Inasmuch as the Petition was on behalf of persons who are engaged as

bill distributors, we make it clear that this order is confined to the persons who were engaged as bill distributors. The respondents will maintain such seniority list Division-wise and must implement it forthwith and in any case from 1.10.2004. Though they will do this w.e.f. 1.10.2004, they will examine the seniority of such persons including that of the petitioners when it comes to give any such work on contract basis.

5. Writ Petition stands disposed of with this order.

(H.L. Gokhale, J.)

(Nishita Mhatre, J.)